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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Clarksville, Texas and Haworth, Oklahoma)

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MM Docket No. 01-182
RM-10202

REPORT AND ORDER
(Proceeding Terminated)

Adopted: April 2, 2004

Released: April 5, 2004

By the Assistant Chief, Audio Division:

1. In response to a petition filed by Katherine Pyeatt ("Petitioner"), the Audio Division of the Media Bureau has before it for consideration the *Notice of Proposed Rulemaking*¹ proposing the allotment of Channel 294A at Clarksville, Texas, as the community's second local FM transmission service. Petitioner filed comments supporting the allotment of Channel 294A at Clarksville, Texas.

2. Haworth Broadcasting Company ("HBC") filed comments and a counterproposal proposing the allotment of Channel 294A at Haworth, Oklahoma, rather than at Clarksville, Texas. In its counterproposal, HBC states that the city of Haworth is an incorporated town with a 2000 U.S. Census population of 354 persons. HBC states that, in the event that Channel 294A is allotted to Haworth, Oklahoma, HBC will file an application for a construction permit for the new station, and, if its application is granted, will promptly construct and operate the new facility.

4. In resolving conflicts between mutually exclusive FM allotments, we normally rely on the FM allotment priorities set forth in *Revision of FM Assignment Policies and Procedures*.² After review of the record in this proceeding, we conclude that Channel 294A should be allotted to Haworth, Oklahoma, rather than Clarksville, Texas. Allotment of Channel 294A at Clarksville would satisfy only the fourth allotment priority, other public interest matters, whereas allotment at Haworth would satisfy the third allotment priority, first local service. Haworth is a community for allotment purposes, deserving of a local FM transmission service. Under the circumstances, the public interest would be served by allotting Channel 294A to Haworth, Oklahoma. Channel 294A can be allotted to Haworth in compliance with the minimum distance separation requirements of the Commission's Rules with a site restriction of 10.1 kilometers (6.3 miles) south of Haworth at coordinates 33-45-33 NL and 94-41-06 WL.

¹ *Port St. Joe, Florida, Holdenville, Oklahoma, Wapanucka, Oklahoma, and Clarksville, Texas*, 16 FCC Rcd 14,912 (MM 2001).

² 90 F.C.C. 2d 88 (1982). The FM allotment priorities are: (1) first fulltime aural service; (2) second fulltime aural service; (3) first local service; and (4) other public interest matters. Equal weight is given to priorities (2) and (3).

5. A filing window for Channel 294A at Haworth, Oklahoma, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent order.

6. Accordingly, IT IS ORDERED, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, That effective May 20, 2004, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, as follows:

<u>Community</u>	<u>Channel Number</u>
Haworth, Oklahoma	294A

7. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

8. For further information concerning this proceeding, contact Deborah Dupont, Media Bureau, (202)418-2180.

FEDERAL COMMUNICATIONS COMMISSION

**John A. Karousos
Assistant Chief, Audio Division
Media Bureau**